

AGENDA ITEM: Compliance Matters – Luz Academy of Tucson, Inc.

Issue

Luz Academy of Tucson, Inc. failed to timely submit its fiscal year 2012 audit reporting package as required by its charter, A.R.S. §15-183(E)(6) and the July 2012 Settlement Agreement with the Board.

Background

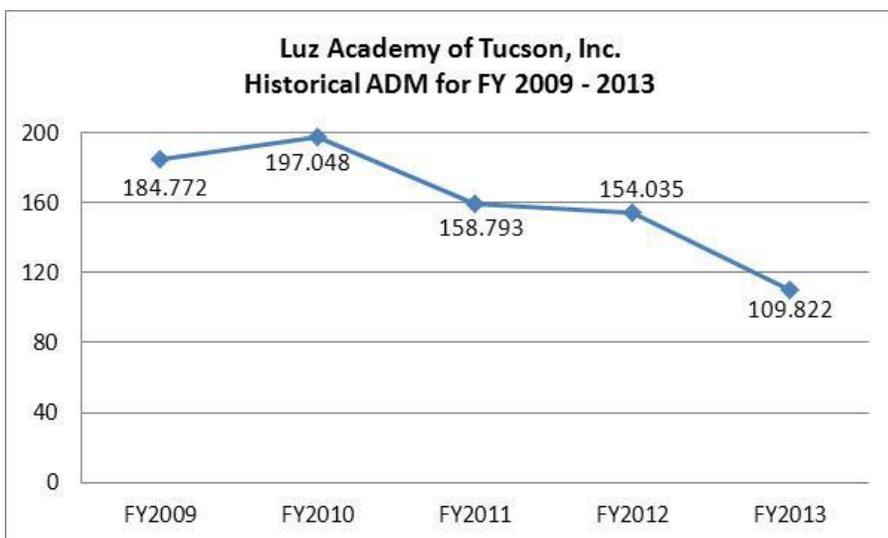
In April 2012, the Board voted to issue a Notice of Intent to Revoke the charter contract of Luz Academy of Tucson, Inc. (“Luz Academy”) for failure to timely submit its fiscal year 2011 audit. Fiscal year 2011 marked the third consecutive year that Luz Academy failed to timely submit its audit. In July 2012 and following receipt of the fiscal year 2011 audit, the Board approved a [Settlement Agreement with Luz Academy](#). Under the Settlement Agreement’s terms, Luz Academy agreed to submit a complete fiscal year 2012 audit reporting package to the Board by the applicable audit deadline and to submit all subsequent fiscal year audit reporting packages by the audit deadline. Pursuant to the Settlement Agreement, if Luz Academy fails to comply with the terms and conditions of the agreement, the Board, may, on no less than 30 calendar days notice, hold a hearing at which time the Board will receive information to determine whether evidence exists that Luz Academy failed to comply with the terms and conditions of the agreement. If the Board determines a breach of the agreement has occurred, the Board may revoke Luz Academy’s charter and terminate its charter contract.

Proposed Settlement Agreement Amendment

In October 2012, Luz Academy submitted a request for an extension for the due date of its fiscal year 2012 audit reporting package to March 31, 2013, stating that it was subject to a single audit. The extension was granted. On April 5, 2013, Luz Academy submitted a financial statement audit reporting package instead of a single audit reporting package. As a result, Luz Academy’s fiscal year 2012 audit was submitted nearly five months after the applicable deadline. At its April 8, 2013 meeting, the Board received this information and directed staff to work with legal counsel to determine the appropriate next step. Staff has proposed an amendment to the Settlement Agreement, which has been approved by Luz Academy. Under the amendment, if Luz Academy is granted a single audit extension, but instead submits a financial statement audit reporting package to the Board after November 15<sup>th</sup>, then Luz Academy has failed to timely submit its audit and is in breach of its charter, state law and the terms and conditions of the Settlement Agreement and amendment. The Board may then proceed to a hearing.

Additional Information

Luz Academy of Tucson, Inc. operates one school serving grades 9-12. The graph below shows the charter holder’s actual 100<sup>th</sup> day average daily membership (ADM) for fiscal years 2009-2013.



A dashboard representation of Luz Academy of Tucson, Inc.'s academic outcomes, based upon the indicators and measures adopted by the Board, is provided below.

**Academic Performance Rating FY 2012**

Charter Holder: Luz Academy of Tucson, Inc.  
Entity ID 4427

Charter School: Luz-Guerrero Early College High School  
Entity ID 5868, Grades 9-12

1. Growth

Traditional High School		1a. SGP		1b. SGP Bottom 25%	
School	School Year	Math	Read	Math	Read
Luz-Guerrero Early College High School	2011-2012	53	56	NR	67
<b>Points Assigned</b>		75	75	0	100
<b>Weight</b>		7.5	7.5	0	15

2. Proficiency

Traditional High School		2a. Percent Passing		2b. Composite School Comparison		2c. Subgroup ELL		2c. Subgroup FRL		2c. Subgroup SPED	
School	School Year	Math	Read	Math	Read	Math	Read	Math	Read	Math	Read
Luz-Guerrero Early College High School	2011-2012	43/55	78/79	-8.9	2.8	27/43	61/63	45/46	75/71	NR	NR
<b>Points Assigned</b>		50	50	50	75	50	50	50	75	0	0
<b>Weight</b>		10	10	7.5	7.5	3.75	3.75	3.75	3.75	0	0

3. State Accountability & Overall Rating

Traditional High School		3a. State Accountability	4a. Graduation Rate	Overall Rating
School	School Year	Grade	GradRate	
Luz-Guerrero Early College High School	2011-2012	75	90	72.813
<b>Points Assigned</b>		75	100	
<b>Weight</b>		5	15	100

Overall Rating	Point Range
Exceeds Standard	> or = to 89
Meets Standard	< 89, but > or = to 63
Does Not Meet Standard	< 63, but > or = to 39
Falls Far Below Standard	< 39

For additional information, see *Academic Performance Framework and Guidance*, available on the ASBCS webpage <http://asbcs.az.gov>

5/24/2013

**Board Options**

Option 1: The Board may choose to approve the amendment to the Settlement Agreement. Staff recommends the following language for consideration: I move the Board approve the amendment to the July 2012 Settlement Agreement between the Board and Luz Academy of Tucson, Inc.

Option 2: The Board may vote to hold a hearing to determine if a breach of the Settlement Agreement has occurred. The following language is provided for consideration: I move, under the terms of the July 2012 Settlement Agreement, that a hearing be held to determine whether evidence exists that Luz Academy of Tucson, Inc. failed to comply with the terms and conditions of its July 2012 Settlement Agreement. Pursuant to the Settlement Agreement, the hearing date shall be scheduled at least 30 days after the charter operator receive notice of today's action.

- Within 48 hours of receipt of the Notice the charter operator shall notify staff and parents/guardians of registered students of the Notice and provide a school location where the copy may be reviewed;
- Within 20 days of receipt of the Notice the charter operator shall provide copies of all correspondence and communications used to comply with the preceding provision; and
- Within 20 days of receipt of the Notice the charter operator shall provide the Board with the names and mailing addresses of parents/guardians of all students registered with the school.

**BEFORE THE ARIZONA STATE  
BOARD FOR CHARTER SCHOOLS**

In the matter of:

**LUZ ACADEMY OF TUCSON,  
INC.** (a nonprofit corporation)

and

**LUZ-GUERRERO EARLY  
COLLEGE HIGH SCHOOL** (a  
charter school).

No. 12F-RV-004-BCS

**AMENDMENT TO SETTLEMENT  
AGREEMENT**

This Amendment, effective as provided in paragraph P below, is entered into by Luz Academy of Tucson, Inc. (“Charter Operator”) and the Arizona State Board for Charter Schools (“Board”). The parties agree to amend the Settlement Agreement executed by the parties in July 2012 to add to the Findings of Fact, Conclusions of Law, and Consent Terms and Order as follows:

**FINDINGS OF FACT**

A. The due date to submit a complete audit reporting package to the Board is November 15<sup>th</sup> of each year (for the preceding fiscal year<sup>1</sup> audit), except that an extension is possible only for a charter operator that is subject to the Single Audit Act Amendments of 1996 (“single audit”).<sup>2</sup> For charter operators that receive a single audit extension, their complete single audit reporting package must be submitted to the Board by March 31<sup>st</sup>.

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<sup>1</sup> The fiscal year is the 12 month period that begins on July 1 and ends on June 30.

<sup>2</sup> Entities that expend \$500,000 or more in federal awards in a fiscal year are required to obtain a single audit.

B. On October 12, 2012, the Charter Operator submitted a request to the Board for an extension for the due date of its fiscal year 2012 audit reporting package ("FY 2012 Audit") to March 31, 2013, stating that it was subject to the single audit.

C. By letter dated October 12, 2012, the Board granted the Charter Operator a single audit extension of the November 15, 2012 due date to March 31, 2013 for the FY 2012 Audit. In granting the extension, the Board advised the Charter Operator:

Please be advised that this extension applies only if the school is subject to a Single Audit. If it is subsequently determined that the school is not subject to a Single Audit, the extension will not apply and the school will be required to submit a financial statement audit by November 15, 2012.

D. On April 5, 2013, for its FY 2012 Audit, the Charter Operator submitted a financial statement audit reporting package instead of a single audit reporting package. As a result, the Charter Operator's FY 2012 Audit was submitted nearly five months after the applicable deadline of November 15, 2012.

E. The Charter Operator has a history of requesting a single audit extension; but subsequently submitting a financial statement audit reporting package.

F. On November 13, 2009, the Charter Operator submitted a request to the Board for an extension for the due date of its fiscal year 2009 audit reporting package ("FY 2009 Audit") to March 31, 2010, stating that it was subject to the single audit.

G. By letter dated November 16, 2009, the Board granted the Charter Operator a single audit extension of the November 15, 2009 due date to March 31, 2010 for the FY 2009 Audit. In granting the extension, the Board advised the Charter Operator:

Please be advised that this extension applies only if the school is subject to a Single Audit. If it is subsequently determined that the school is not subject to a Single Audit, the extension will not apply and the school will be required to submit a financial statement audit by November 15, 2009.

H. On April 10, 2010, for its FY 2009 Audit, the Charter Operator submitted a financial statement audit reporting package instead of a single audit reporting package. As a result, the Charter Operator's FY 2009 Audit was submitted nearly five months after the applicable deadline of November 15, 2009.

I. On April 19, 2013, the Charter Operator submitted to the Board a document addressing events leading up to the late submission of its FY 2012 Audit and identifying changes being implemented by the Charter Operator to help ensure timely submission of future fiscal year audit reporting packages.

### CONCLUSIONS OF LAW

J. The Charter Operator breached its Charter and A.R.S. §§ 15-183(E)(6) and -914 when it failed to timely submit its FY 2012 Audit.

K. The Charter Operator breached its Charter and §§ 15-183(E)(6) and -914 when it failed to timely submit its FY 2009 Audit.

### CONSENT TERMS AND ORDER

L. The Charter Operator agrees that the Findings of Fact Nos. 1 through 10 of the Agreement and paragraphs A through I of this Amendment subject the Charter Operator to the termination and revocation of its Charter.

M. By entering into this Amendment, the Charter Operator agrees to the factual findings and conclusions of law set forth in the Agreement and in this Amendment, and understands that it cannot contest any of these findings or conclusions in the future.

N. The Charter Operator agrees that for its FY 2013 Audit and for all subsequent fiscal years, prior to any request for a single audit extension for the due date of its fiscal year audit reporting package, the Charter Operator shall first determine that it meets the applicable federal requirements for a single audit.

O. The Charter Operator agrees that if it is granted a single audit extension for its FY 2013 Audit and any subsequent fiscal year audit; but, instead, submits to the Board a financial statement audit reporting package after the due date of November 15<sup>th</sup>, then the Charter Operator has failed to timely submit its FY Audit and is in breach of its Charter, A.R.S. §§ 15-183(E)(6) and -914 and the terms and conditions of the Agreement and this Amendment. The Board may, on no less than thirty (30) calendar days' notice, hold a hearing at which time the Board will receive information to determine whether evidence exists that the Charter Operator failed to comply with the terms and conditions of the Agreement and this Amendment. The Charter Operator shall be entitled to present all appropriate evidence at this hearing. If the Board determines that a breach of this Agreement and/or Amendment has occurred, the Board may revoke the Charter Operator's charter to operate the School and terminate its charter contract for breach of this Agreement and/or its Amendment.

P. This Amendment is not binding on either party until both the Board and the Charter Operator's Governing Board approve it by the number of votes necessary to pass a measure at a

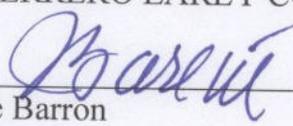
public meeting. The Amendment is effective immediately upon its approval and execution by the authorized representatives of the Board and the Charter Operator.

Q. The Charter Operator understands that it has the legal right to consult with an attorney prior to entering into this Amendment.

Signed this \_\_\_\_\_ day of \_\_\_\_\_, 2013 for  
ARIZONA STATE BOARD FOR CHARTER SCHOOLS

\_\_\_\_\_  
By: Jake Logan  
President  
Arizona State Board for Charter Schools

Signed this 10<sup>th</sup> day of May, 2013 for  
LUZ ACADEMY OF TUCSON, INC.  
LUZ-GUERRERO EARLY COLLEGE HIGH SCHOOL

  
\_\_\_\_\_  
By: Pepe Barron  
Charter Representative  
LUZ ACADEMY OF TUCSON, INC.

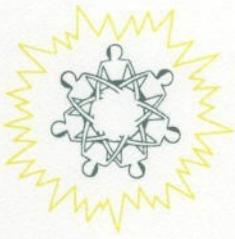
COPIES mailed this \_\_\_\_\_ day  
of \_\_\_\_\_, 2013 to:

Pepe Barron  
Luz Academy of Tucson, Inc.  
2797 N Introspect Drive  
Tucson, AZ 85745

Kim S. Anderson  
Assistant Attorney General  
Education and Health Section

1275 West Washington  
Phoenix, Arizona 85007

By \_\_\_\_\_  
3284588



**Luz Academy of Tucson, Inc.**  
2797 North Introspect Drive \* Tucson, AZ 85745  
(520) 882-6216 \* Fax (520) 622-4787  
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**BOARD RESOLUTION**

At a special meeting of the Board of Directors of Luz Academy of Tucson, Inc. on May 10, 2013 at 4:00 pm, the following resolutions were proposed and approved by the Board:

WHEREAS, pursuant to the Arizona State Board of Charter Schools, the Board is required to approve and submit the Amendment to Settlement Agreement No. 12F-RV-004-BCS.

NOW THEREFORE, BE IT RESOLVED that the Board of Directors of Luz Academy of Tucson, Inc. hereby authorizes Dr. Pepe Barrón to act on behalf on Luz Academy of Tucson, Inc. in entering into an Amendment to Settlement Agreement with the Arizona State Board of Charter Schools; and to sign for and perform any and all responsibilities in relation to such agreement, and the Board of Directors approves the Amendment to Settlement Agreement. The board members not present were polled by telephone and such resolution was approved unanimously.

Approved: May 10, 2013

approval by teleconference  
Ms. Cecile B. Morse  
President, Board of Directors

Adalberto M. Guerrero  
Prof. Adalberto M. Guerrero  
Treasurer, Board of Directors

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Ms. Cece Bustamante  
Member, Board of Directors

Pepe Barrón  
Dr. Pepe Barrón,  
CEO/Superintendent

Barbara W. Cisneros  
Mrs. Barbara W. Cisneros  
Member and Secretary, Board of Directors